

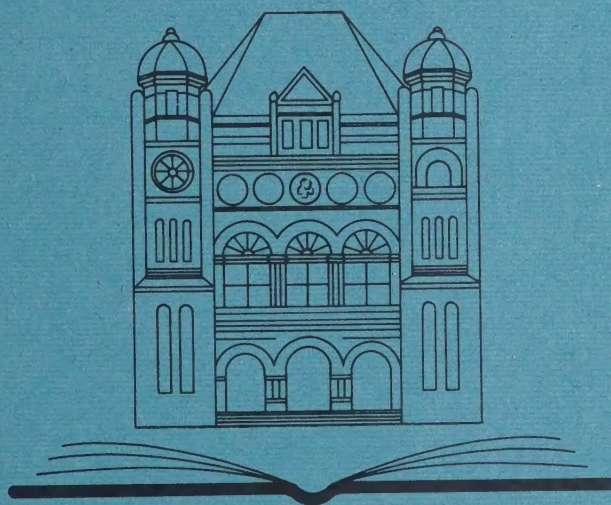
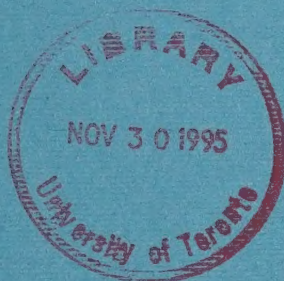
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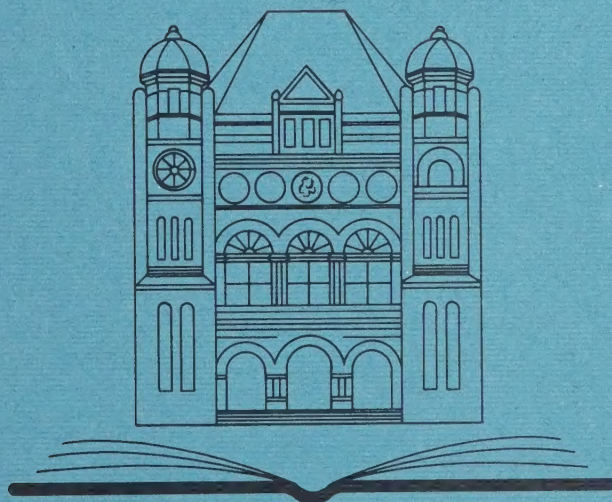
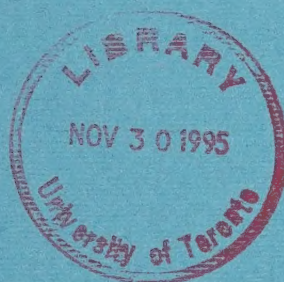


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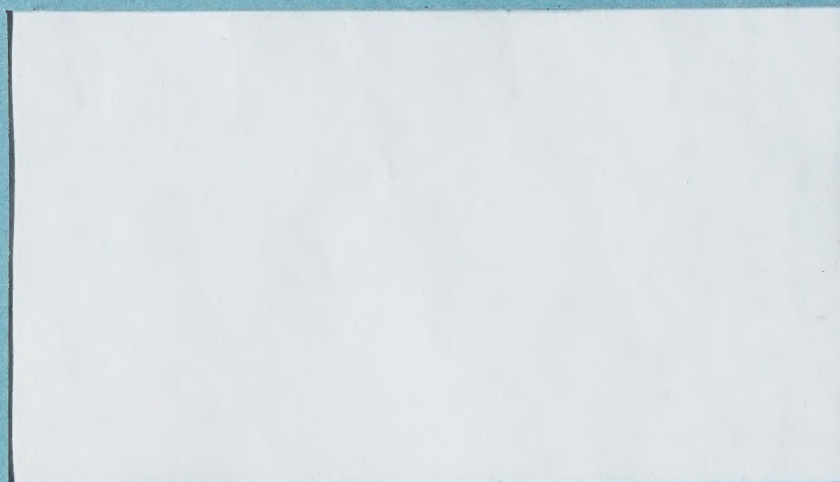
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**THE ONTARIO LEGISLATURE:
AN OVERVIEW**

Current Issue Paper 105

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June 1995

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Originally Prepared by:

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Contents

INTRODUCTION	1
CONSTITUTIONAL AND LEGAL FRAMEWORK	2
Responsible Government in Ontario	3
THE ELECTION OF MEMBERS	5
THE ROLE OF THE LEGISLATURE	7
KEY PLAYERS IN THE ASSEMBLY	9
PARLIAMENTARY PROCEDURE	12
A TYPICAL DAY IN THE LEGISLATURE	13
SOME IMPORTANT LEGISLATIVE PROCEEDINGS	17
The Debate on the Speech from the Throne	17
The Budget Debate	17
Opposition Days	19
HOW BILLS ARE PASSED	19
COMMITTEES OF THE LEGISLATURE	21
PARLIAMENTARY PRIVILEGE	23
THE STRUCTURE AND ORGANIZATION OF THE OFFICE OF THE ASSEMBLY	25
SUPPORT SERVICES FOR MEMBERS	27
NOTES	29



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INTRODUCTION

Politics in the Ontario Legislature must often strike the casual observer as puzzling, perhaps even mysterious. Dominated by a partisan battle among political parties which often appears to generate more rhetoric than substance, and operating under procedures which can seem arcane and near incomprehensible to the uninitiated, life in an assembly such as the provincial Legislature is a world unto itself. Parliamentary politics can frustrate not only the outsider but also those elected to participate in it who, however impressive their qualifications garnered in other walks of life, fail for some reason to adapt to its own unique rhythms. The following anecdote about the British writer Hilaire Belloc, who served briefly in the British House of Commons, is instructive.

One of the most distinguished men of letters to become a Member of Parliament for a short time at the beginning of this century was Hilaire Belloc. It is said that many years later when he was over 80 years of age a young politician dropped in to see him at the Reform Club. "I have just come from the House," said the young man, perhaps just a shade self-importantly. "God!" said Belloc, "Is that bloody nonsense still going on?"¹

One wonders who the butt of this story is intended to be - the young man so charmed by the career he has entered that he is in danger of losing touch with ordinary life beyond the walls of the Commons, or Belloc himself, who in his own unspectacular career (he resigned to write a diatribe against party politics) failed to experience any of the excitement and colour that most devotees of politics associate with a seat in a democratically elected legislature.

This paper provides an overview of the Ontario Legislature and the way politics is conducted behind the "ponderous sandstone"² of the Legislative Building at Queen's Park. While the paper attempts to be comprehensive in describing the operation of the Ontario Legislature, it cannot, for reasons of space, be exhaustive in detail. It aims only to provide the reader with an introduction to the workings of parliamentary democracy in Canada's largest province.³

CONSTITUTIONAL AND LEGAL FRAMEWORK

The constitutional framework of the Province of Ontario is set out in the *Constitution Act, 1867* (formerly the *British North America Act, 1867*).⁴ This Act not only established the federal Parliament but also provided the governmental framework for the four original confederating provinces, including Ontario. Section 69 of the Act declared:

There shall be a Legislature for Ontario consisting of the Lieutenant Governor and of One House, styled the Legislative Assembly of Ontario.

Other sections established that the executive power in the province was vested in the Lieutenant Governor acting on the advice of the Executive Council (more commonly called the Cabinet) made up of Ministers of the Crown.⁵

Despite the provinces' constitutional status, some Fathers of Confederation (most notably Sir John A. Macdonald) expected that the provincial role in the new federation would be akin to that of lowly municipalities. It was left to the Judicial Committee of the Privy Council (Canada's highest appeal court until 1949) to establish that the authority of the provincial legislatures was as "plenary and ample"⁶ as that of Parliament as long as they were acting within the limits prescribed under the *Constitution Act, 1867*.⁷

In addition to the *Constitution Act, 1867*, the other constitutional enactment that bears on the Ontario Legislature is the *Charter of Rights and Freedoms* contained in the *Constitution Act, 1982*.⁸ Section 52 of the Charter declares that all laws (including provincial laws) inconsistent with its provisions are of no force and effect. However, under section 33, a provincial legislature can expressly declare that a statutory provision shall operate notwithstanding ss. 2 and 7 to 15 of the Charter (which deal with rights such as the right to freedom of speech and association), though such a declaration will have force for no more than five years. There are other provisions of the Charter that should be noted. A citizen of Canada has the right to vote for a Member of a provincial assembly. The Charter stipulates that a provincial legislature can sit for a maximum of five years without a general election. The only exception is in a time of war, invasion or insurrection, when two-thirds of the Members vote for a continuation. Moreover, a legislature is required to sit at least once every 12 months.⁹

Finally, the *Constitution Act, 1982* provides that a provincial legislature may exclusively make laws amending the Constitution of the Province, excepting laws affecting the office of the Lieutenant Governor.¹⁰

In addition to these constitutional provisions, certain statutes passed by the Legislative Assembly itself deal with the fundamental structure of government in the province. Foremost in this regard is the *Legislative Assembly Act*.¹¹ This Act sets out who is qualified to sit as a Member, some of the duties and responsibilities of the Speaker and Deputy Speaker, the rights and privileges of the Legislature and its Members, and the powers of legislative committees. It prescribes how the Members are to be indemnified and under what conditions. The Act creates the Office of the Assembly and its senior officers, establishes the responsibility of the Speaker for the Office, and creates a Board of Internal Economy responsible for the financial and administrative management of the Assembly.

Responsible Government in Ontario

As well as these formal constitutional and statutory instruments, the framework of government in Ontario rests upon constitutional conventions. Conventions are patterns of political behaviour which over time have solidified into universally accepted rules. In Ontario, as in many other Commonwealth countries, the basic conventions of parliamentary government have not been codified by the Legislature. Guidance in interpreting constitutional conventions must be sought in the study of precedents built up over the years based on political practice, the works of scholars and the decisions of the courts.¹²

In the British parliamentary tradition, the most important constitutional convention is the principle known as responsible government.¹³ In a system of responsible government (or cabinet or parliamentary government, as it may also be called) the formal head of state, whether it be the Queen, the Governor General or (in the case of Ontario) the Lieutenant Governor, must always act under the advice of ministers who are members of the legislative branch and who enjoy the confidence of a majority in the elected house of the legislative branch. The effect of responsible government therefore is to transfer effective political power from the Crown to elected officials. In the case of Ontario, the government is conducted by the Premier and his or her cabinet, who compose the Executive Council.

Because the Premier and his or her ministers are in office solely because they have the support of a majority in the Legislative Assembly, it is important that they all be Members of the Assembly. Occasionally a person who is not a Member is appointed as a minister, but the conventions of responsible government dictate that he or she must quickly be elected to the Legislature. If he or she fails to win election, then he or she must resign (or be dismissed) from the ministry.

Under responsible government there is no formal separation of powers between the executive and legislative branches of government. The head of the executive branch, the cabinet, draws its personnel and its power to govern from the legislative branch. Government is not conducted by the Legislature, but the cabinet must direct the government through the Legislature and under its continual oversight. Without the consent of the Legislature no revenue can be drawn from the Consolidated Revenue Fund by the executive for any expenditure on any purpose, nor can taxes be imposed. Members of the Legislature daily examine and scrutinize the performance of the cabinet through such means as Question Period, debates on the floor of the Assembly, and in committee.

Since the major premise of responsible government is that the cabinet enjoys the confidence of a majority in the Legislature, it follows that a cabinet which has lost that confidence cannot indefinitely remain in office. The formal passage of a motion of no confidence by the Legislature is the clearest possible sign that the government has lost the confidence of the Assembly. The motion for an Address in Reply to the Speech from the Throne and the motion approving the budget tabled by the Minister of Finance are conventionally regarded as questions of confidence in the government. Also, the government may formally indicate that it regards a particular vote as a matter of confidence. It is also true that the defeat of any significant government bill would likely encourage the opposition to argue that the government had lost the confidence of the House.

When the Legislature is deemed to have withdrawn its confidence, there are only two alternatives: either the government must resign to make way for a new ministry which can command the confidence of the Legislature, or the Legislature must be dissolved to allow for an election.

Under responsible government, each ministry or government department is headed by a cabinet minister, who represents it in the Legislature.¹⁴ Cabinet ministers may be aided by junior ministers

(known formally as Ministers Without Portfolio) and parliamentary assistants. It is up to each cabinet minister to decide how to allocate responsibilities among the junior ministers and parliamentary assistants assigned to him or her by the Premier.¹⁵ However, normally it is the minister who will introduce any bills which relate to that ministry into the Legislature.

Government ministries are administered by civil servants, who operate under the convention or principle of political neutrality. The basic elements of this convention are as follows:

- ▶ ministers make policy decisions, which civil servants execute;
- ▶ civil servants are appointed and promoted on the basis of merit, not their partisan political views;
- ▶ civil servants do not engage in partisan political activities;¹⁶
- ▶ civil servants do not publicly express their personal political views;
- ▶ civil servants provide advice to ministers in private, and in return ministers accept all public responsibility for government decisions; and
- ▶ civil servants are loyal to the government of the day regardless of whether they agree personally with its policies.

It is widely recognized that the responsibilities and complexities of modern government are so enormous that top permanent officials, experts in their respective fields, inevitably play a substantial role in the development as well as execution of public policy. Nevertheless, while civil servants in contemporary parliamentary democracies such as Ontario do wield influence over the formation of policy, they remain subject to the overriding authority of the elected legislature and the cabinet.

THE ELECTION OF MEMBERS

Members of the Ontario Legislature claim a seat in the Assembly by winning the election in one of the 130 constituencies (formally known as electoral districts) represented in the Assembly. The number of constituencies and their boundaries are set out in the *Representation Act*.¹⁷ Approximately every ten years an independent Electoral Boundaries Commission is appointed to make recommendations to the Legislature regarding the number of seats which should be added to the House and how the boundaries of the electoral districts should be

adjusted, taking into account demographic and other changes that have taken place since the last adjustment was made.¹⁸

Under the *Election Finances Act*,¹⁹ political parties in Ontario which intend to engage actively in politics must be registered with the Commission on Election Finances, an independent body reporting to the Assembly through the Speaker. The parties' constituency associations and every candidate seeking election must be registered with the Commission.

There are three main parties in Ontario: the New Democratic Party (NDP), the Liberal Party and the Progressive Conservative Party. In addition, seven other parties ran some candidates in the 1995 election.²⁰

The principal function of the Commission is to enforce the limitations set by the Act on contributions made by private individuals and groups to political parties and their candidates, and at the same time, to enforce the limitations on what political parties, constituency associations, and candidates can spend on election campaigns. The objective of the Act is to ensure that elections in Ontario are conducted equitably.

The aspiring candidate for a seat in the Assembly will seek the endorsement of a political party, usually one of the three principal parties, which together won all the seats in the Assembly between 1955 and 1990. (In the 1995 election, one candidate running as an Independent won election to the Legislative Assembly).²¹ The next important step in a Member's advance to political office occurs on election or polling day. What happens on that day is regulated by the *Election Act*,²² which is administered by the Chief Election Officer and his or her staff. The intent of the legislation is to ensure that voting takes place under fair conditions and that there is no tampering with the results. The Act carefully sets out what procedures must be followed in enumerating electors and establishing polling stations, how ballots are to be created and marked, who is eligible to vote, what procedures are to be followed when election results are contested, what are corrupt practices and offences, and related matters.

Under our electoral system, the candidate who receives the most votes wins the seat. This is often referred to as the "first past the post" system, in contrast to other systems such as proportional representation, which allocates seats among parties and candidates on the basis of the percentage of votes gained.

Having won a seat in the Assembly, the new Member, upon taking the oath of allegiance to the Queen, will then officially take his or her seat, on either the government or opposition side of the House.²³

Ontario is one of the few provinces in which historically three political parties actively contest and win seats in the provincial Legislature, as the following table indicates.

TABLE ONE
ONTARIO PROVINCIAL ELECTION RESULTS SINCE 1971

Election Year	Conservative		Liberal		NDP	
	Seats	Votes	Seats	Votes	Seats	Votes
1971	67%	45%	17%	28%	16%	27%
1975	41%	36%	28%	34%	30%	29%
1977	46%	40%	27%	32%	26%	28%
1981	56%	44%	27%	34%	17%	21%
1985	42%	37%	38%	38%	20%	24%
1987	12%	24%	73%	47%	15%	25%
1990	15%	23%	28%	32%	57%	38%
1995*	63%	45%	23%	31%	13%	21%

* 1995 figures are unofficial

Note: The vote percentages do not add up to 100% due to rounding and the exclusion from the table of other parties

The table demonstrates that under the "first past the post" electoral system there is no necessary correlation between the percentage of votes a party receives in an election and the number of seats won. A party whose support is concentrated in a few ridings, or which is thinly spread across a large number, is not likely to win as many seats as its proportion of electoral support.

THE ROLE OF THE LEGISLATURE

The principal task of legislatures is law-making. The Latin word *legis* is the genitive of *lex*, meaning law; *lator* means carrier or proposer. A legislator was thus one who proposed and enacted law. The

identification of a law-making body, the legislature, as distinct from the body charged with the task of executing the laws once made (the executive), was central in the writings of early students of parliamentary government such as John Locke and Montesquieu. Under the norms of responsible government, however, in practice most laws originate with the executive (the cabinet), and are passed by the legislature after debate. As we shall see, while the opportunity does exist for ordinary Members of the Legislature not in the cabinet to introduce legislation, few private Members' bills ever become law. Under responsible government it is accepted political practice for the elected government of the day to claim the right, and the responsibility, to be the principal author of public legislation.

Another fundamental task of the Legislature is to provide the personnel of the executive. As already noted, under responsible government ministers of the Crown are expected to be Members of the Assembly. Moreover, when a political party comes to power it will invariably place its more experienced parliamentarians in the key positions in cabinet.

An important function of the Legislature is to legitimize government decisions. When the elected representatives of the people meet in the Legislature and debate the issues of the day, the Legislature thereby provides an outlet for the expression of the different points of view and the preoccupations and opinions of the electorate. A parliamentary debate on a government bill is often a protracted affair in which Members explore every facet of the matter in question, and all the arguments that can be made for and against it. Such a process serves to forestall complaints from those who will be affected by the new law that their particular concern was not addressed by the legislators before voting on the measure.

Perhaps the most important responsibility of the contemporary Legislature is to provide a public forum in which the actions of the government can be examined and scrutinized. This scrutinizing function operates at two levels, corresponding to the two confrontations underlying all parliamentary business. The first, which is reflected in the very shape of the Chamber, is the confrontation between Government and Opposition. The Legislature is the principal forum from which the parties appeal to the voters for their support in the next provincial election. In this regard a well-known description of the British House of Commons is equally applicable to the Ontario Legislature: "Governing has now become a prolonged election campaign...[The Legislature] is the arena in which most of the continuous election campaign is fought."²⁴ The Government is obliged

to defend everything it wants to do, and the Opposition is given the opportunity to criticize the Government and expound its own policies. This is a confrontation which is articulated in almost every parliamentary action of every Member in the House. In nearly everything they do or say, Ministers are speaking for or defending their administration and attacking the Opposition, while Opposition Members attack the Government and publicize their alternatives. The Opposition has a vested interest in scrutinizing the performance of the Government, for by so doing it can demonstrate to the electorate its own superiority as an alternate government.

The second confrontation is equally important, although less obviously manifested and usually less fiercely demonstrated. It is the historical confrontation between Parliament, answerable to the people, and the Executive, appointed by the Crown. The Legislature is expected to monitor closely how ministers spend public money and manage their departments, and ensure that the grievances of citizens are brought to the attention of the government. This task is exercised less by the parties in the Legislature than by ordinary backbenchers, who through their constituency work become highly knowledgeable about the impact of government policy on the community. In the Ontario Legislature this confrontation provides much of the material for Oral Questions, Members' Statements, Adjournment Motion debates, and Questions on the Order Paper.

A Member's day will typically be divided among attending to the business of the House, attending caucus and committee meetings, participating in various debates, or returning to his or her constituency to address the concerns, problems and grievances of constituents. Depending on personal inclination and political circumstances, some Members concentrate most of their attention on House matters while others focus on constituency problems, taking on something of an Ombudsman's role in the process.

KEY PLAYERS IN THE ASSEMBLY

The Speaker of the Legislative Assembly presides over the Assembly's debates and is the guardian of Members' historical rights and privileges. The Speaker receives the title of 'Honourable,' and is fourth in official precedence behind the Lieutenant Governor, the Premier and the Chief Justice of Ontario. He or she has jurisdiction over the Legislative Precinct which currently consists of the Legislative

Building and the first two floors of the Whitney Block where some Members have their offices.

Under the changes to the Standing Orders agreed to by the three party caucuses in 1989, the Speaker is now formally elected by the Members of the Assembly in a secret ballot. This reform was modelled on a similar amendment to the Standing Orders of the Canadian House of Commons introduced in 1984. Ontario was the first provincial legislature to adopt this procedure. It is designed to ensure that the Chair is occupied by a Member who has the support of his or her colleagues. Previously, the Government selected a candidate for the position, which the House then affirmed.²⁵

The new Standing Order was first invoked at the commencement of the 35th Parliament. On November 19, 1990 David Warner (NDP--Scarborough - Ellesmere) defeated three other candidates on the second ballot.

The Speaker acts in a nonpartisan capacity in upholding the Standing Orders, or rules of the Legislature. In this he or she is guided not only by the Standing Orders but also by previous decisions and interpretations of the Standing Orders made by his or her predecessors, and by the practices and procedures of other Westminster-style legislatures. The Speaker's interpretation of the Standing Orders is final and cannot be challenged by the Members. The Speaker can expel Members for not complying with the Standing Orders. He or she ensures the decorum of the Legislature and, through the Sergeant-at-Arms, protects the Chamber from demonstrations and other disturbances.

The Speaker is assisted in his or her presiding role by a Deputy Speaker and two Deputy Chairs of the Committee of the Whole. The Members who fill these positions are appointed by the House. The Deputy Speaker presides over the proceedings of the Assembly when the Speaker is absent, and serves as the Chair of the House when it sits as a Committee of the Whole. The Deputy Chairs support the Deputy Speaker in his or her role as Chair of the Committee of the Whole.²⁶

The Clerk of the Legislative Assembly and the Clerks Assistant provide procedural advice to the Speaker and to the Members. The Clerk and his or her assistants are responsible for recording the formal minutes of proceedings, which are printed in *Votes and Proceedings*, a formal document prepared daily as the record of the previous day's business. The Table Clerks also prepare the *Orders and Notices* (commonly referred to as the Order Paper) which can be described as

the long-term agenda of the work the Legislature has before it. There is also a business paper which lists those matters that the Legislature will take up on a particular day.

The Clerk's Office also performs other duties. For example, it receives applications for private bills and ensures that they are processed in compliance with the Standing Orders. (Private bills, as opposed to public bills, deal with proposed legislation that will have restrictive rather than general or province-wide application). The Clerk's Office is also responsible for compiling the *Journals of the Assembly*, which are a record of what transpired in the Legislature over the course of one session. Moreover, the Office regularly compiles an *Interim Status of Business Report* and at the end of each session a *Final Report*, which includes information on legislation, the Estimates, committees' orders of reference, speakers in the Throne and budget debates, sessional papers and resolutions considered by the Legislature.

Another key player in managing the affairs of the Legislature is the Government House Leader. This position is usually held by a senior member of cabinet. The Government House Leader's responsibilities include the daily ordering of House business. Which bills will be called for second and third reading, which committee reports will be debated and when, are matters at the discretion of the Government House Leader.

In Ontario, the Government House Leader usually does not act alone. The two opposition parties also have their House Leaders, with whom the Government House Leader will negotiate the daily schedule of the House. They decide the Legislature's business a week in advance, thereby giving all Members notice of what business will be conducted, so that they can prepare themselves for the imminent debate.

Other important players in the management of the Legislature are the parties' Whips. The Whips' principal function is to ensure that the Members of their parties are in the House for all votes. The Whips also decide on the order of speakers in debate and are generally responsible for ensuring Members' attendance in the House and in committee.

PARLIAMENTARY PROCEDURE

Parliamentary procedure has been defined as "the mass of rules, practices and conventions"²⁷ by which the Legislature regulates its own proceedings. For a large deliberative assembly such as the Legislature, agreed upon procedures are necessary if business is to be transacted in an orderly manner. Procedure addresses itself to the difficult problem of how to get a large number of vocal, ambitious and partisan individuals to cooperate in the making of decisions.

Parliamentary procedure in Ontario is derived from four sources: practice; the formal written rules of the Assembly, known as the Standing Orders; rulings by the Chair; and certain provisions of the *Legislative Assembly Act*. The basic principles of procedure in the Legislative Assembly (as in the Canadian House of Commons) are derived from British practice. Originally, the Standing Orders stated that in all unprovided or controversial cases the House was to follow the rules and usages of the British Parliament. In 1929, however, the Ontario Legislature took an important step forward in the development of an indigenous parliamentary tradition when it agreed to amend the Standing Orders to specify that "in all contingencies unprovided for" the question should be decided by the Speaker with reference first, to "the usages and precedents" of the Legislature, and only secondly to British usage.²⁸ As Professor Schindeler put it in his *Responsible Government in Ontario*, "clearly, the apron strings were being cut when the ancient practice of the British House was made inferior to the sixty-one year old practice of the provincial legislature."²⁹

An essential characteristic of parliamentary procedure is its binding quality. It should have mandatory effect on those persons and parties to whom it applies, and it should be applied consistently on all relevant occasions. It must be certain and not arbitrary, so that those affected by it can anticipate the procedural consequences of pursuing any given course of parliamentary action. For this reason, where procedure is based on precedent rather than a written rule, such precedents should be followed consistently by those entrusted with its enforcement. Thus, the Speaker seeks to maintain a consistent pattern of decisions.

The most important rules are those which are essential if the Assembly is to accomplish any work at all. For example, if it is not to waste time, the Legislature must discuss something definite. It cannot afford time for general talk at the end of which the Chair somehow gathers 'the sense of the meeting,' as is possible in small groups. In the Legislature no one can speak except to move or debate a definite

motion or amendment. Furthermore, not more than one question can be before the Legislature at any time.

Crucial to the success of any deliberative assembly is a temper of moderation and the spirit of fair play. These qualities are expressed in a number of rules and practices. For example, there is the rule that all speeches must be directed to the Chair, not to individual Members or to the House in general; this rule is designed to discourage personal attacks by Members against each other. Another is that a Member must not be referred to by name but with reference to his or her constituency, and that language must be 'parliamentary.' Under the Standing Orders most substantive motions must be preceded by notice, to guard against surprise and attempts by the government to slip important business through the House before Members are aware of its impact.

A TYPICAL DAY IN THE LEGISLATURE

When the Legislature is in session it meets on Monday to Wednesday at 1:30 p.m., and on Thursday at 10:00 a.m.³⁰ A sitting of the Legislature begins with the entrance of the Speaker, preceded by the Sergeant-at-Arms carrying the Mace, and followed by the Clerk and his or her assistants. After the Mace is placed at the head of the Clerk's Table, the Speaker reads the Prayers.

The normal parliamentary day is divided into two broad headings: Routine Proceedings and Orders of the Day. Routine Proceedings consists of the following:

- ▶ Members' Statements
- ▶ Statements by the Ministry and Responses
- ▶ Oral Questions
- ▶ Motions
- ▶ Petitions
- ▶ Reports by Committees
- ▶ Introduction of Bills

During Members' Statements up to three backbenchers from each party are recognized by the Speaker to make a short statement lasting no longer than a minute and a half on some aspect of public policy. During Statements by the Ministry and Responses, cabinet ministers may make short statements announcing some government policy or action, followed by brief responses from their 'shadow critics' in the

opposition parties. The Ministers' Statements may take up no more than 20 minutes, while the Responses may consume a total of five minutes.

Oral Questions (commonly known as Question Period) is the centrepiece of the parliamentary day; in the Ontario Legislature it lasts for 60 minutes. Question Period in the Ontario Legislature, to a degree unusual in Canada, is dominated by the party leaders. The Standing Orders specify that questions start with two from the Leader of the Opposition, followed by two from the leader of the third party. The Speaker grants each leader two supplementaries per original question. Then questioning proceeds in rotation among the parties, starting with the official opposition. Which Members will ask the questions, and on what topics, will usually be decided upon by the party caucuses in advance of Question Period. Backbenchers tend to be granted one supplementary to their initial question. Moreover, leaders' questions and supplementaries are often longer than their backbenchers'. Under this format, not surprisingly, the party leaders consume a significantly larger proportion of time available in Question Period. Nevertheless, Question Period is the single most important forum for backbenchers in the Legislature. It provides them with the opportunity to query freely the Premier and the cabinet about any aspect of public policy in Ontario.

Ministers, however, do not have to answer any question posed by a Member. In practice they usually do respond, though a minister cannot be compelled to give an answer satisfactory to the Member asking it. When a Member feels that a response was inadequate, he or she can raise it at the end of the day's sitting on Tuesday and Thursday at the time of the adjournment of the House. A Member has up to five minutes to speak and the minister or his or her parliamentary assistant up to five minutes to respond. The adjournment motion debate can take up to 30 minutes.³¹

After Question Period comes Routine Motions, when technical or administrative motions are introduced, such as motions setting the time the House will meet or adjourn, variations in the routine of House business, changes in the membership of committees, and other similar matters.

The next item is the presentation of Petitions, when Members can present petitions from their constituents addressed to the Legislature. Petitions, as the name suggests, request the government to take some action or reverse its position on some controversial question of public

policy. Petitions are not debated by the House, although the government is required to respond to them in eight sessional days.

Taken up next are reports from committees. When standing or select committees report on bills their reports must be dealt with by the Legislature immediately. In other cases there are three methods by which a committee report is brought to the Legislature's attention. A report can be presented with a brief statement by the Chair of the committee (or some other committee Member). When a report includes a request for legislative consideration, or when such consideration is requested by a petition of 12 Members filed with the Clerk, a government motion is placed on the *Order and Notices* paper for consideration by the Legislature at some future date. Alternatively the Chair can move the adoption of the report if it contains a substantive motion, offer a brief explanation of its contents, and then adjourn the debate. The adjourned debate is then carried on the Order and Notices paper for consideration at some future date. If the committee so requests, the government must respond to the report within 120 calendar days.

The last item considered during Routine Proceedings is the Introduction of Bills. This is the point at which all bills, whether government, private Members' public or private bills, are introduced. The minister or backbencher stands in his or her place and asks leave of the House to introduce a bill and have it read a first time. This motion for first reading of a bill is non-debatable.

At the end of Routine Proceedings the Assembly takes up its main work under the rubric of Orders of the Day. The Government House Leader will have previously indicated which items from among those listed on the Order Paper will be considered. The Orders of the Day typically could include such matters as the second or third readings of a bill, or the resumption of the adjourned debate on the Speech from the Throne, the budget, or a committee report.

The following table shows how the parliamentary time available under Orders of the Day was consumed in the 34th and 35th Parliaments.

TABLE TWO
HIGHLIGHTS OF THE LEGISLATIVE SCHEDULE

Session	Days debating government bills* & motions	Days debating the Throne Speech	Days debating the budget(s)	Emergency Debates	Non-confidence motion debates	Days debating the estimates	Days debating motions for interim supply or concurrence in supply	Opposition Days	TOTAL Sessional Days
34th Parl., 1st Session (1987-1989)	95	9	11	10	5	14	13	n/a**	156
2nd Session (1989-1990)	80	9	13	3	4	n/a**	7	9	142
35th Parl., 1st Session (1990-1991)	91	7	2	n/a**	3	n/a**	13	8	122
2nd Session (1992)	73	7	3	n/a**	3	n/a**	5	9	94
3rd Session (1993-1994)	144	7	10	n/a**	1	n/a**	8	12	169

* At second reading, in Committee of the Whole or at third reading.

** Not applicable due to amendments to the Standing Orders.

Note: More than one item can be considered in a sessional day. Also, on some days the time available is completely consumed by Routine Proceedings and business arising therefrom, such as consideration of questions of privilege.

The information presented in this table demonstrates how the government controls the time of the Legislature. Under Orders of the Day most sessional days are spent considering the cabinet's agenda, whether it be a bill or motion, the contents of the Throne Speech, or the budget. The days spent on issues and priorities chosen by the opposition, either by means of a motion of non-confidence on grounds framed by one of the opposition parties, or on an Opposition Day, are minimal. In the first session of the 35th Parliament, the agenda was controlled by the opposition parties by these means on only 11 days; in the second session, on 12; and in the third session, on 13.

SOME IMPORTANT LEGISLATIVE PROCEEDINGS

This section describes three of the most important proceedings which occur every parliamentary session.

The Debate on the Speech from the Throne

At the beginning of each session of the Ontario Legislature the Lieutenant Governor reads the Speech from the Throne, which contains the government's policies and programs for the upcoming session.

Under the Standing Orders six sessional days are allotted for the debate on the Throne Speech. This debate provides the opposition parties with an opportunity to assess and criticize the government's proposals. The failure of the motion for an Address in Reply to the Speech from the Throne (the formal motion endorsing the Throne Speech) to carry, or the passage of an opposition amendment to it, is conventionally regarded as a vote of non-confidence in the government.

The Budget Debate

Under the Standing Orders the Minister of Finance (formerly known as the Treasurer) introduces his or her budget sometime after the conclusion of the debate on the Throne Speech. At the end of the budget speech the Minister moves a motion along these lines: "That this House approves in general the budgetary policy of the Government." Passage of this motion is considered a question of confidence in the government. The budget consists of the

government's proposed expenditures and revenues. It contains estimates of how much money will be required to fund the various programs and policies administered by the government and, at the same time, the Minister's plans for raising the money to pay for these programs. Unlike the debate on the Throne Speech, no fixed number of sessional days are allotted for the debate on the Minister's motion. The budget debate proceeds until all Members who wish to participate have spoken. It is important to point out that the Standing Orders impose no obligation on the government to hold a vote on the Minister's motion at the conclusion of the budget debate.³² The budget is implemented through passage of the Estimates and legislation authorizing spending programs and taxes.

The government is required to present the details of its proposed expenditures to the Legislature no later than five sessional days after the presentation of the budget. These proposals are formally known as the Estimates, and consist of several books containing breakdowns of each ministry's proposed expenditures by program. The Estimates are referred to the Standing Committee on Estimates, which is required to consider the Estimates of between six and 12 ministries and offices. These are selected in two rounds by the parties represented on the Committee, with the Official Opposition having the first choice, the other opposition party the second, and the government party the third in each round. Each selection, of no more than two ministries or offices, receives up to 15 hours of consideration by the Committee. All of the Estimates not selected for consideration by the Committee are "deemed" to have been passed and reported by the Committee and concurred in by the House. The Committee must complete its consideration of the Estimates by the third Thursday in November. If the Committee fails to do this the Estimates will be deemed to have been passed and reported by the Committee and concurred in by the House.

For each of the Estimates reported from the Committee an Order for Concurrence is placed on the Order Paper. These Orders are debated in the Legislature for a maximum of six hours, at the end of which the Speaker puts every question necessary to dispose of the Order for Concurrence in Supply for each of the Estimates the Committee has examined.

Opposition Days

Every calendar year ten sessional days are set aside as Opposition Days. They are distributed among the opposition parties in proportion to their representation in the Legislature. On such a Day the opposition moves and debates a motion (for which there must be prior notice) attacking the government for its conduct of some aspect of public policy. Such a debate ends in a vote, which is not considered a question of confidence.

HOW BILLS ARE PASSED

A bill becomes law by receiving three readings in the Legislature and then Royal Assent (granted by the Lieutenant Governor). Whether the law goes into force at the time of Royal Assent or at some subsequent date depends on the provisions of the law itself. There are two types of bills: the public bill, which deals with matters having general applicability to all Ontario citizens (for example, a bill changing the status of business corporations in the province), and the private bill, which has merely local or specific applicability (for example, a bill dealing with a particular corporation). Although private bills also have to receive three readings before they become law, they otherwise follow a separate set of procedures from public bills.

Public bills can be further subdivided into government public bills and private Members' public bills. The former are introduced by ministers. It is a basic principle of responsible government that only a minister of the Crown can introduce public bills which require the spending of taxpayers' money. Private Members' bills, as the name suggests, are bills introduced by ordinary Members - that is, not members of the cabinet. These can be on any subject, save that they cannot require the spending of public money. However, few private Members' bills are passed.³³

A public bill is introduced and read a first time during Routine Proceedings. There is no debate on the bill at this time. The bill is then placed on the Order Paper. It can be called for second reading at the discretion of the Government House Leader. How quickly a bill will be called for second reading depends on factors such as the importance of the bill in relation to others which are pending and the opposition's likely reaction to the bill.

When a public bill is called for second reading, debate takes place on its principle. No amendments can be moved at this point.³⁴ After second reading, a bill is likely to be referred to a committee, either to the Committee of the Whole House or to a standing committee. It is at the committee stage that amendments to the bill can be moved. If the referral is to the Committee of the Whole House, there is no opportunity for public submissions; if the referral is to a standing committee, witnesses can be invited and submissions made.

After completing its clause-by-clause review the committee will report the bill back to the Legislature. At this point the bill can be directly ordered for third reading by the Legislature, or it can be referred to the Committee of the Whole House where further amendments can be made.

After this stage comes third reading, when debate on the bill must be directed to its principles. After a bill has received third reading, it is assented to by the Lieutenant Governor, the Queen's representative in the province. No bill can become law without the consent of the Lieutenant Governor.

The following table shows the success rate of government bills since the beginning of the 32nd Parliament in 1981.

TABLE THREE
THE SUCCESS RATE OF GOVERNMENT
BILLS IN THE HOUSE

Party in Power	Parliament	Government Bills Passed
Tory majority (1981-85)	32nd Parliament, 1st Session	71%
	2nd Session	80%
	3rd Session	83%
	4th Session	77%
Liberal minority (1985-87)	33rd Parliament, 1st Session	57%
	2nd Session	64%
	3rd Session	23%
Liberal majority (1987-90)	34th Parliament, 1st Session	92%
	2nd Session	54%
NDP majority (1990-95)	35th Parliament, 1st Session	93%
	2nd Session	65%
	3rd Session	78%

The table indicates that when the governing party has a majority in the Legislature it can expect to see most of its legislation passed. When a bill does fail to pass through all stages of the legislative process, it is almost invariably because the government decides not to press forward with the legislation. The government may anticipate protracted opposition in the House, it may opt to pursue competing priorities, or it may simply run out of time at the end of the session (particularly in the last session before an election).

COMMITTEES OF THE LEGISLATURE

In the Ontario Legislature a great deal of the work of the House is delegated to committees. There are 11 Standing Committees. Four of these - the Administration of Justice, General Government, Resources Development and Social Development - are grouped so as to correspond to four general areas of policy. When a Committee does consider a public bill after second reading it is usually one of these four. These Committees also engage in special studies on matters referred to them by the Legislature. The sub-committees of each of these Committees, which are composed of Members representing each party, have the power to designate a subject the full Committee must consider. Such a designation must relate to the mandate of any of the ministries, agencies, boards and commissions of the government of Ontario assigned to the Committee under the Standing Orders. The Committee can consider such an item for up to 12 hours.³⁵

As already discussed, the Standing Committee on Estimates reviews the government's expenditure Estimates. The Standing Committee on Finance and Economic Affairs deals generally with the fiscal and economic policies of the province as well as the Minister of Finance's budget papers. The Standing Committee on Government Agencies reviews the operation of agencies, boards and commissions of the government of Ontario, as well as Order-in-Council appointments to them. The Standing Committee on the Ombudsman reviews the annual reports of the Ombudsman and formulates general rules for his or her guidance. The Standing Committee on the Legislative Assembly has a general mandate to review the Standing Orders of the Assembly, to advise the Speaker on the administration of the House and the provision of services and facilities to Members, and to act as an advisory body regarding the televising of legislative proceedings. The Standing Committee on Public Accounts reviews the reports of the Provincial Auditor and the *Public Accounts* (i.e., the official annual record of all government spending). This Committee is one of the

principal parliamentary vehicles for ensuring the accountability of the government to the Legislature regarding the public's money. Finally, there is the Standing Committee on Regulations and Private Bills. Most private bills are referred to this Committee for consideration after first reading. This Committee also scrutinizes the regulations issued pursuant to the terms of a statute, in light of criteria set out in the Standing Orders.

In addition to Standing Committees, from time to time the Legislature will also create select committees. These are created for a specific purpose, usually to study a particular topic in considerable detail, and cease to exist once they have finished their work and reported to the Legislature. Select committees usually sit between sessions in order not to draw Members away from the work of the Standing Committees.³⁶ Recent examples include the Select Committee on Education, which in the 34th Parliament issued several reports attracting widespread attention from teachers and educators; and the Select Committee on Confederation, which was established by the NDP government during the recent round of constitutional talks which produced the Charlottetown Accord, in order to study constitutional issues and hold public hearings at which Ontarians could express their views on the future of the country.

In the 35th Parliament committees consisted of up to 12 Members, with each party represented in proportion to its strength in the House.³⁷ Moreover, the chairs of committees were assigned in proportion to the parties' representation. There are three exceptions. The Standing Committee on Estimates must be chaired by an opposition Member, the Standing Committee on Finance and Economic Affairs by a government Member, and the Standing Committee on Public Accounts by a Member of the Official Opposition.

In pursuing their functions all committees have the power to send for "persons, papers and things"³⁸ - that is, committees have the power to summon anyone in the province they think will help them in their work, and to ask for any document or other material. In most circumstances they do not take a heavy-handed approach; instead, they usually seek to elicit the voluntary cooperation of witnesses.

PARLIAMENTARY PRIVILEGE

Parliamentary privilege grants special rights to Members of the Legislature which ordinary citizens do not enjoy. According to *Erskine May*, parliamentary privilege is "the sum of the peculiar rights enjoyed by ...[the] House collectively ...and by Members of ...[the] House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals."³⁹ Whenever any of these rights is disregarded or attacked, the offence is a breach of privilege and is punishable by the Legislature.

At the beginning of each Parliament following upon his or her election and the entry of the Lieutenant Governor, the Speaker addresses His or Her Honour and claims on behalf of Members

all their undoubted rights and privileges, especially that they have freedom of speech in their debates, access to your person at all seasonable times, and that their proceedings may receive from you the most favourable construction.

In practical terms the most important privilege claimed by the Speaker on behalf of Members is freedom of speech. Other principal privileges are freedom of Members from arrest, from any attempt to obstruct their access to the Chamber, and the right of the Legislative Assembly to regulate its own proceedings. Without a guarantee of freedoms or rights such as these Members individually and collectively would be severely handicapped in the performance of their parliamentary functions.⁴⁰

In Ontario many of the classic categories of parliamentary privilege are codified in the *Legislative Assembly Act*. This is supplemented by Speaker's rulings, precedents drawn from other parliamentary jurisdictions such as the Canadian House of Commons and Westminster, and learned texts such as *Erskine May*⁴¹ and *Beauchesne*.⁴²

Under the Standing Orders, a Member who feels that his or her privileges have been breached must bring the matter to the attention of the Legislature as soon as possible, where it will be taken into consideration immediately. After the Member has risen and briefly outlined the facts of the case at hand and explained why these constitute a breach of privilege, the Speaker must decide whether a

prima facie or arguable case does in fact exist. It must be emphasized that it is not the task of the Speaker to determine the merits of the issue; this responsibility lies with the Legislature itself.⁴³ If the Speaker does find that the Member has raised a plausible breach of privilege, it is incumbent on the Member to move that the matter be referred to the Standing Committee on the Legislative Assembly for consideration.

Genuine breaches of parliamentary privilege are relatively rare.⁴⁴ Moreover, on those few occasions when the Standing Committee on the Legislative Assembly has issued a report finding that a breach has occurred, it has been reluctant to recommend that the Legislature exercise its penal jurisdiction and punish the offenders. Westminster-style legislatures generally are conscious of the fact that privilege confers upon Members rights and immunities ordinary citizens do not enjoy, and usually avoid generous interpretations of the law of privilege which might provoke resentment among the electorate.⁴⁵

Nevertheless, Members have a responsibility to raise a question of privilege where a legitimate case exists. It is beholden on them to defend the privileges of their colleagues and the House as a corporate institution whatever their personal views of the merit of the privilege at stake. On occasion Members have been chided for waiving their rights as a parliamentarian or failing to defend their privileges conscientiously.⁴⁶

THE STRUCTURE AND ORGANIZATION OF THE OFFICE OF THE ASSEMBLY

After a Member has been elected he or she will soon have to become familiar with the administrative as well as political dimensions of life in the Legislature. This section of the Paper discusses the administration of the Legislative Assembly of Ontario.

As is fitting under a system of responsible government whereby the executive is accountable to the Legislature, the Office of the Assembly is separate and distinct from the government of Ontario. The Office hires its own staff, formulates its own administrative policies and controls its own budget. The head of the Office is the Speaker of the Legislature.

The Speaker chairs the Board of Internal Economy, which is responsible for the financial and administrative management of the

Assembly. In addition to the Speaker, the Board is composed of three cabinet ministers and one Member from each of the three party caucuses. It does not report to the Legislative Assembly though the minutes of its meetings are made public.

The Board scrutinizes and authorizes the estimates of the Office of the Assembly. The Office is funded by revenue transferred by the Treasurer to an account known as the Legislative Assembly Fund. The Speaker is formally responsible for all disbursements from this Fund.

The Board also scrutinizes the financial estimates of those offices which serve the Members of the Legislature. Those offices are:

- ▶ the Office of the Chief Election Officer;
- ▶ the Office of the Commission on Election Finances;
- ▶ the Office of the Conflict of Interest Commissioner;
- ▶ the Office of the Environmental Commissioner;
- ▶ the Office of the Information and Privacy Commissioner;
- ▶ the Office of the Ombudsman; and
- ▶ the Office of the Provincial Auditor.

Once the estimates are approved by the Board, they are sent to the Minister of Finance for inclusion in the government Estimates which the Minister tables in the Legislature.

Subject to the approval of the Board, the Speaker is responsible for the terms and conditions of all employees of the Office of the Assembly, including their job classifications and benefits. Employees of the Office, as well as the political staff hired by Members and the party caucuses, are not members of the Ontario Public Service. However, in formulating policies for the Office's employees and the political staff, the Office's Human Resources Branch takes into consideration the salary levels, classifications and benefits offered in the Ontario Public Service.

Among the other responsibilities of the Board are the following:

- ▶ to approve the organization and administrative policies of the Office of the Assembly;
- ▶ to advise and give direction on any matter the Board considers necessary for the operation of the Office of the Assembly;
- ▶ to determine the allowances of the party caucuses;

- ▶ to establish and review all matters related to allowances and services for the Members of the Legislature; and
- ▶ to approve actions taken by the Speaker regarding matters affecting Assembly employees.

The Clerk of the Legislative Assembly is the principal officer of the House. He or she is appointed by the Lieutenant Governor in Council (the cabinet) at the request of the Speaker acting upon the recommendation of the Standing Committee on the Legislative Assembly. The Clerk chairs the Management Advisory Committee, whose other members are the Executive Director of the Legislative Library, the Executive Director of Assembly Services, the Controller and, *ex officio*, the Speaker. The Committee reviews all matters relating to the Office of the Assembly for the consideration of the Board of Internal Economy. The Clerk is responsible for reporting the recommendations of the Management Advisory Committee to the Board and for ensuring that the directives of the Board are carried out.

Another important officer of the Assembly is the Sergeant-at-Arms whose ceremonial duties include attending the Speaker with the Mace on entering and leaving the Legislative Chamber. While the House is in session, he or she enforces security in the Chamber and the Legislative Building. The Sergeant-at-Arms is also responsible for the safekeeping of the Mace and the furniture and fittings of the House and the committee rooms.

SUPPORT SERVICES FOR MEMBERS

The Members of the Legislative Assembly are provided with a range of services to assist them in their duties as legislators and representatives of their constituents.

All Members are provided with a global staff allowance which covers the cost of the staff hired by them to work in either their Queen's Park or constituency offices. The terms and conditions of their employment are determined by the Board of Internal Economy. Each Member receives an office in the Legislative Building or nearby with the appropriate furnishings, paid for by the Office of the Assembly. The Office also pays for the Members' postal and telephone charges. Each Member is entitled to financial support for his or her constituency offices.

Each Member is allowed three constituency newsletters per fiscal year, paid for by the Office of the Assembly. These mailings are intended to give Members a forum for informing their constituents about provincial politics; however, their content must be non-partisan in nature.

The Office of the Assembly also provides funding for the parties' caucus research staff and their leaders' support staff. Money is allocated on the basis of caucus size.

The Clerk of the Legislative Assembly is the principal authority on the law, practices and privileges of the Legislative Assembly. The advice of the Clerk and Clerks Assistant on these matters is available not only to the Speaker and other presiding officers, but also to all Members of the Legislature. The committee Clerks are responsible for providing procedural and administrative support to the standing and select committees and for providing advice to the Members on questions of procedure affecting the committees. Each committee Clerk is responsible for the overall administrative operation of the committee, including advising Members of the committee on its agenda, arranging for the attendance of witnesses, preparing the budget, and monitoring the committee's annual financial requirements.

Another important service provided by the Office of the Assembly is the Hansard Reporting Service, which celebrates its 50th year in the Ontario Legislature in 1994. Headed by the Editor of Debates, the Service publishes the official record (known colloquially as *Hansard*) of the Legislature's proceedings, including all committee meetings (unless otherwise ordered by a committee). Copies of *Hansard* are distributed free to Members and Assembly employees and the staff of the party caucuses.

The Legislative Library is a further important resource for the Members. The Library provides information, reference and research services to the Members and their staff, as well as to senior officers of the Assembly. The Library has extensive holdings of books, periodicals, newspapers, government publications, reports, microfiche, press clippings and computer databases, and employs a large professional staff. The Executive Director of the Legislative Library is a senior officer of the Office of the Assembly and a member of the Management Advisory Committee.

The Legislative Research Service is a branch of the Legislative Library. It provides objective and nonpartisan research analysis to individual Members upon request and to committees of the Assembly.

The Service is staffed by research officers with general and specialized expertise in the social sciences, public administration, law, and regional and environmental planning.

The offices of the Executive Director of Assembly Services and the Controller provide the Members with a wide variety of personal and administrative services, such as the Parliamentary Public Relations Office, security in the Legislative Building, building maintenance, and the financial administration of the Assembly.

Members also have available to them the services of the legislative drafters in the Office of the Legislative Counsel. Though the Counsel and his staff are employees of the Ministry of the Attorney General and not of the Assembly, the Standing Orders require them to provide confidential assistance to Members, primarily in the drafting of private Members' bills, and to the committees of the Assembly.

In addition to the above, a number of other services funded by the Office of the Assembly are available to Members. These include French language training, translation services, dining facilities in the Legislative Building, a barber shop, a mail room, and a media studio in the Legislative Building which Members can use to tape broadcasts for distribution to local media outlets.⁴⁷

NOTES

¹ Cited in J.A.G. Griffith, "The Political Constitution," *The Modern Law Review* 42:1 (1979): 1.

² Desmond Morton, "Introduction: People and Politics of Ontario," in *Government and Politics of Ontario*, ed. Donald C. MacDonald (Toronto: Macmillan, 1975), p. 1.

³ For a more detailed analysis of the Ontario Legislature see Graham White, *The Ontario Legislature: A Political Analysis* (Toronto: University of Toronto Press, 1989). Also useful is Graham White, ed., *Inside The Pink Palace* (Toronto: Ontario Legislative Internship Programme/The Canadian Political Science Association, 1993), a collection of essays on the inner workings of parliamentary politics in Ontario, and Roger Hall's *A Century to Celebrate 1893-1993: The Ontario Legislative Building* (Toronto & Oxford: Dundurn Press, 1993), which was commissioned by the Legislature to celebrate the 100th birthday of the Legislative Building in 1993.

⁴ *Constitution Act, 1867* (U.K.), 30 & 31 Vic., c. 3.

⁵ See the discussion in W.H. McConnell, *Commentary on the British North America Act* (Toronto: Macmillan, 1977), chapter five.

⁶ *Hodge v. The Queen* (1883), 9 App. Cas. 117, at 132.

⁷ McConnell, *Commentary on the British North America Act*, p. 120.

⁸ *Constitution Act, 1982*, as enacted by the *Canada Act, 1982* (U.K.), 1982, c. 11.

⁹ *Ibid.*, ss. 3-5.

¹⁰ *Ibid.*, s. 45.

¹¹ *Legislative Assembly Act*, R.S.O. 1990, c. L.10.

¹² See e.g., *Re Resolution to Amend the Constitution*, [1981] 1 S.C.R. 753.

¹³ The following paragraphs on responsible government draw on Peter W. Hogg, "Responsible Government," in *The Canadian Political Tradition*, eds. R.S. Blair and J.T. MacLeod (Toronto: Methuen, 1977), pp. 17-41.

¹⁴ In Ontario, the cabinet is formally known as the Executive Council. All ministers of the Crown must be sworn into the Executive Council under the terms of the *Executive Council Act*, R.S.O. 1990, c. E.25.

¹⁵ On February 3, 1993 Premier Rae unveiled a re-organization of his cabinet which included the creation of a number of positions for Ministers Without Portfolio. The government indicated that, in contrast to past practice, these ministers would not sit in cabinet though they were members of the Executive Council; that they were not assigned specific ministerial responsibilities; and that they were not permitted to answer questions during Question Period. This provoked a lively discussion in the Legislature on the role and responsibilities of such ministers. See Ontario, Legislative Assembly, *Hansard: Official Report of*

Debates, 35th Parliament, 3rd Session (20 April 1993): 113-118, 123-127. Eventually the Speaker ruled that Members could ask the new Ministers questions during Question Period. He noted that under the terms of Standing Order 33, the Ministers could always refer questions to their senior colleagues and that in any case they were under no obligation to answer questions at all (see Ontario, Legislative Assembly, *Hansard: Official Report of Debates*, 35th Parliament, 3rd Session (22 April 1993): 211-213).

¹⁶ In Ontario this principle has been qualified by the *Crown Employees Collective Bargaining Act*, S.O. 1993, c. 38, which permits public servants under certain circumstances to engage in political activities. Public servants who do not belong to the "restricted category" as defined in the Act are entitled to take leaves of absence from their positions for the purpose of engaging in political activities such as running for public office. Most civil servants in this category may engage in certain other activities (for example, fund-raising for a political party) without taking a leave of absence. Civil servants in the restricted category (e.g., deputy ministers, senior managers, full-time members of agencies, boards and commissions, and OPP commanders) are granted more restricted political rights.

¹⁷ *Representation Act*, R.S.O. 1990, c. R.26.

¹⁸ An Electoral Boundaries Commission last sat in 1983-86 and produced the recommendations embodied in the *Representation Act*, S.O. 1986, c. 30, which prescribed the electoral boundaries for the 1987, 1990 and 1995 general elections.

¹⁹ *Election Finances Act*, R.S.O. 1990, c. E.7.

²⁰ In the 1995 election, a total of 201 candidates ran for parties other than the three which dominate the Legislature, an increase of two from the 1990 figure. However, the 1995 figure includes 68 candidates representing the Natural Law Party, which did not contest the 1990 election. The number of candidates running for the registered small parties other than the Natural Law Party dropped from 199 in 1990 to 133 in 1995. See *Ottawa Citizen*, "Independents run in record numbers," June 3, 1995, p. C2.

²¹ The successful Independent is Peter North, in Elgin. This is the first victory for a candidate formally running as an Independent in a provincial general election since 1934. The last Member who did not belong to one of the three principal parties was a Communist, Joe Salsberg, who represented the downtown Toronto riding of St. Andrew from 1943 to 1955, when he was defeated by a Conservative, Allan Grossman.

²² *Election Act*, R.S.O. 1990, c. E.6.

²³ Members of the government party sit to the right of the Speaker, and Members of the opposition parties, to his or her left.

S. 128 of the *Constitution Act, 1867* requires Members of the Legislature to swear an oath of allegiance to the monarch, the text of which is set out in the Act's fifth schedule. For an interesting debate on the continuing relevance of the oath see Ontario, Legislative Assembly, *Hansard: Official Report of Debates*, 35th Parliament, 1st Session (31 October 1991): 3287-3295.

²⁴ Bernard Crick, *The Reform of Parliament* (London: Weinfeld and Nicolson, 1968), p. 26.

²⁵ The government usually selected a candidate after informally consulting the opposition parties.

²⁶ For more information about the role of the Chair in the Ontario Legislature see David Pond, *Presiding Over The House: An Interview With The Occupants Of The Chair Of The Legislative Assembly Of Ontario*, Current Issue Paper No. 150 (Toronto: Legislative Research Service, Legislative Library, March 1994).

²⁷ Gilbert Campion, *An Introduction to the Procedure of the House of Commons*, 3rd ed. (London: Macmillan, 1958), p. 1.

²⁸ Quoted in F.F. Schindeler, *Responsible Government in Ontario* (Toronto: University of Toronto Press, 1969), p. 139.

²⁹ *Ibid.*, p. 138.

³⁰ The annual schedule for sittings of the House is set out in Standing Order 6(a). However, this schedule can be superseded by the passage of a government motion setting out an alternate calendar.

The number of days the House sits yearly is declining. In the 1960s, the House sat for an average of 87 days per year; in the 1970s, 108; in the 1980s, 105; and thus far in the 1990s (1990-1994), 87. In 1994, the House sat for only 71 days: this is the lowest total in a non-election year since 1964.

³¹ In the third and final session of the 35th Parliament (1993-1994), which covered 169 sessional days, there were 13 adjournment motion debates. In contrast, in the first 30 sitting days of the Canadian House of Commons in 1994, the equivalent procedure under the Standing Orders of the Commons had already been invoked on 30 occasions.

³² See the Speaker's ruling in Ontario, Legislative Assembly, *Hansard: Official Report of Debates*, 35th Parliament, 3rd Session (1 June 1994): 6557-58.

³³ From the commencement of the first session of the 28th Parliament in 1968 to the close of the third session of the 35th Parliament in 1995, 1,984 private Members' public bills were introduced in the Ontario Legislature: only 32 of these were eventually passed into law.

³⁴ Members can move either a "hoist" or a "reasoned" amendment to the motion for second reading of a bill. A hoist motion declares that the bill be not now read a second time, but stand for discussion at some future, specified date (for example, six months hence). A motion for a reasoned amendment to a bill at second reading declares that the bill be not now read a second time, but sent elsewhere (for example, back to cabinet) for further consideration. However, these motions are extremely rare. See Graham White, *The Ontario Legislature: A Political Analysis*, p. 124, and Roderick Lewis, *The House Was My Home* (Toronto: Queen's Printer, 1987), pp. 91-93.

³⁵ In the 35th Parliament 11 committee reports were issued under the authority of Standing Order 125.

³⁶ In the 34th and 35th Parliaments the government struck a Special Committee on the Parliamentary Precinct, to study the architectural restoration of the Legislative Building.

³⁷ Standing Order 110(a) stipulates that the committees shall consist of no more than 11 Members. However, at the outset of the 35th Parliament, the House agreed to expand the committees' membership by one to 12. See Ontario, Legislative Assembly, *Journals*, 35th Parliament, 1st Session (28 November 1990): 27. During the 35th Parliament each of the standing committees consisted of six government Members, three members of the official opposition, two Members of the third party, and the chair, whose

party affiliation varied from committee to committee (see the text following this note).

³⁸ Standing Order 107(b).

³⁹ C.J. Boulton, ed., *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 21st ed. (London: Butterworths, 1989), p. 69.

⁴⁰ Westminster style legislatures such as the Ontario Legislative Assembly also have the inherent power to punish as a contempt of the Legislature acts (or omission of acts) which obstruct or impede the House in the performance of its functions. The category of acts which could be construed as a contempt is conceptually distinct from that which constitutes breaches of privilege, though in practice the two overlap. Section 46 (1) of the *Legislative Assembly Act* lists "acts, matters and things" which constitute a breach of privilege or a contempt of the Legislature.

For the most recent contempt case in Ontario, see Ontario, Legislative Assembly, Standing Committee on the Legislative Assembly, *Report on Keith Harfield* (Toronto: The Committee, April 1992).

⁴¹ C.J. Boulton, ed., *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage*.

⁴² Alistair Fraser, W.F. Dawson, John A. Holtby, eds., *Beauchesne's Rules and Forms of the House of Commons of Canada*, 6th ed. (Toronto: Carswell, 1989).

⁴³ See, e.g., the ruling by Mr. Speaker in *Hansard: Official Report of Debates*, 33rd Parliament, 1st Session (10 December 1985): 2287.

⁴⁴ Since 1980 six privilege cases have been reported on by the Standing Committee on the Legislative Assembly.

⁴⁵ See the discussion in Ontario, Legislative Assembly, Standing Committee on Procedural Affairs, *Report on the Matter of Privilege relating to the Action taken by the Canadian Imperial Bank of Commerce against the Member for Riverdale* (Toronto: The Committee, 1986), pp. 4-11. This Committee was the predecessor to the Standing Committee on the Legislative Assembly.

⁴⁶ See, e.g., Ontario, Legislative Assembly, Standing Committee on the Legislative Assembly, *Report on the Service of Process on the Member for Brantford within the Precincts of the House* (Toronto: The Committee, 1987), p. 9.

⁴⁷ This section of the Paper is based on Ontario, Legislative Assembly, Office of the Assembly, *Guide to Members' Allowances and Services and Members' Support and Caucus Staff* (Toronto: The Office, May 1994).



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